

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY
CIVIL ACTION NO 16-MD-2738 (FLW) (LHG)

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IN RE JOHNSON & JOHNSON : TRANSCRIPT OF
POWDER PRODUCTS MARKETING, : STATUS CONFERENCE
SALES PRACTICES. :
----- : DECEMBER 7, 2017

CLARKSON S. FISHER UNITED STATES COURTHOUSE
402 EAST STATE STREET, TRENTON, NJ 08608

B E F O R E: THE HONORABLE FRED A. L. WOLFSON, USDJ

A P P E A R A N C E S:

BEASLEY ALLEN, ESQUIRES
BY: P. LEIGH O'DELL, ESQUIRE (ALABAMA)
-and-
ASHCRAFT & GEREL, ESQUIRES
BY: MICHELLE A. PARFITT, ESQUIRE (VIRGINIA)
CHRIS TISI, ESQUIRE (VIRGINIA)
-and-
COHEN, PLACITELLA & ROTH, ESQUIRES
BY: CHRISTOPHER M. PLACITELLA, ESQUIRE
On Behalf of the Plaintiffs Steering Committee

DRINKER, BIDDLE & REATH, ESQUIRES
BY: SUSAN M. SHARKO, ESQUIRE
JULIE L. TERSIGNI, ESQUIRE
-and-
SKADDEN, ARPS, SLATE, MEAGHER & FLOM, ESQUIRES
BY: JOHN H. BEISNER, ESQUIRE (WASHINGTON, D.C.)
On behalf of Defendant Johnson & Johnson

(Continued.)

* * * * *
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SEYFARRTH & SHAW, ESQUIRES
BY: THOMAS L. LOCKE, ESQUIRE (WASHINGTON D.C.)
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THE AXELROD FIRM, ESQUIRES
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On Behalf of Defendant PCPC

COUGHLIN DUFFY, ESQUIRES
BY: LORNA A. DOTRO, ESQUIRE
MARK K. SILVER, ESQUIRE
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GORDON & REES, ESQUIRES
BY: ANN THORNTON FIELD, ESQUIRE (PENNSYLVANIA)
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On behalf of Defendant Imerys Talc America

C E R T I F I C A T E

PURSUANT TO TITLE 28, U.S.C., SECTION 753, THE
FOLLOWING TRANSCRIPT IS CERTIFIED TO BE AN ACCURATE
TRANSCRIPTION OF MY STENOGRAPHIC NOTES IN THE
ABOVE-ENTITLED MATTER.

S/Vincent Russoniello
VINCENT RUSSONIELLO, CCR
OFFICIAL U.S. COURT REPORTER

1 (In open court.)

2 THE CLERK: All rise.

3 JUDGE WOLFSON: Thank you. You may be seated.

4 (Appearances noted.)

5 * * * * *

6 JUDGE WOLFSON: On the record.

7 We've been having a discussion with regard to
8 the application to quash the notice of deposition of
9 Dr. Fred Pooley in Wales, and there had been an
10 application made by the plaintiff to quash the cross
11 designation, that it was pending before Judge Pisano.

12 We've had a discussion that the defendants
13 were going to file a response today. But after
14 further inquiry, one, with regard to the need for
15 moving forward immediately, what the health of Dr.
16 Pooley is, what his role is, whether as a fact or
17 expert witness is, many of the issues are not really
18 ripe today and as a result Ms. Sharko on behalf of J&J
19 has indicated that she has withdrawn the cross notice
20 for deposition of Dr. Pooley in the MDL.

21 MS. SHARKO: Correct. Limited to the MDL.
22 And the matter can now be litigated in the state
23 courts in the asbestos cases.

24 JUDGE WOLFSON: Fine. I have nothing to do
25 with those. So that is withdrawn.

1 Please notify Judge Pisano so he doesn't have
2 to waste his time or you spend your money having him
3 review the materials.

4 MS. SHARKO: We will.

5 JUDGE WOLFSON: Thank you.

6 Speaking now for a few moments or longer about
7 the issue of experts and ultimately what may result by
8 timing, Daubert, et cetera.

9 I had directed when we were here the last
10 time, and it was in a case management order, that the
11 plaintiff had to identify experts and their areas of
12 expertise in a basic summary.

13 I guess what I want to say -- I didn't count
14 them all. What do we have, about 30 you've
15 identified?

16 MS. PARFITT: Your Honor, there are about 37.

17 JUDGE WOLFSON: 37. I will tell you, frankly,
18 I was taken aback when I saw that submission. It was
19 not what I expected. I don't think it's a real
20 submission. I think it's the universe of anyone you
21 could possibly identify. It's not telling me who you
22 really are focused on.

23 I don't think it's helpful. I don't think
24 it's helpful to the defendants. It's certainly not
25 helpful to the Court because it's not narrowing where

1 we are. Probably everybody could go out and figure
2 out anybody who could possibly serve as a plaintiff's
3 expert in these areas.

4 It didn't do it. It's not what I expected.
5 You are not having 37 experts in this case. I know
6 that and you know that.

7 MS. PARFITT: Your Honor, may I be heard on
8 that?

9 JUDGE WOLFSON: Yes.

10 You are going to tell me you are going to have
11 37 experts?

12 MS. PARFITT: I want to clarify.

13 JUDGE WOLFSON: Okay.

14 MS. PARFITT: Your Honor, when you asked us to
15 identify the experts that we've been working with,
16 that is indeed what we do, and I can represent to the
17 Court that all of those 37 individuals are people
18 that -- members of our expert committee or leadership
19 that we've been working with over the last year. The
20 areas, and I think it's important because there
21 were --

22 JUDGE WOLFSON: I'm not so concerned about who
23 you work with or consult with. I was looking for
24 those who you were going to be designating as your
25 experts in this case who would render reports, so that

1 we could assess them and make any appropriate motions
2 and decide whether they would testify at a trial.

3 MS. PARFITT: If I may, your Honor?

4 JUDGE WOLFSON: Yes.

5 MS. PARFITT: The areas, and I realize that
6 the numbers were large, and indeed we have been
7 working with regard to reports and I thought it might
8 be helpful to the Court to know the areas.

9 There were almost 17 different areas from
10 genetics to radiation oncologists, to regulatory
11 individuals, epidemiologists, statisticians, chemists,
12 biomedical engineers, OBGYNs, geologists,
13 pathologists, toxicologists, microscopists, material
14 science, occupational health, public health, quality
15 control and environmental sciences.

16 And the only reason, your Honor, I take a
17 moment to go through is those were all very different
18 specialties. And as we have been looking at this case
19 and its broader perspective with regard to what is
20 talcum powder products and the issue of the
21 constituents within that, it expanded the list of
22 experts that we felt we might introduce to the Court
23 in the fields of material science, in geology, in
24 chemistry and occupational health.

25 So what we had done, as we have worked in

1 earnest to develop actual reports for this individual,
2 I understand what the Court is saying. It's an
3 overwhelming number of individuals. But, frankly, the
4 specialty for most of them, of those 17 or so
5 specialties, there are probably about two.

6 There are only two categories where there
7 might be more than two experts designated in those
8 particular disciplines. There is overlap. Some
9 experts might have been a regulatory expert, but also
10 a toxicologist and pharmacologist. And what we would
11 try to do is keep that individual in one wheelhouse so
12 there wasn't a duplicative nature in this court.

13 I only say that, your Honor, believe me, I'm
14 not arguing, I'm just simply representing to the Court
15 what that world was of experts, and it was not
16 intended to do anything other than represent to the
17 Court, as you had asked: Who have you been working
18 with in earnest? How have you been developing the
19 opinions that you intend to show the Court in order to
20 actually frame this case? And that is what we have
21 been doing.

22 As you can imagine, your Honor, with the
23 issues, with testing, the samples, the asbestos issue,
24 that has been a new array of experts that really
25 haven't been previously introduced to the Court. So

1 the numbers were larger than what the Court might have
2 expected.

3 The other thing is, we had not completed and
4 still have not completed our discovery. As your Honor
5 has just indicated, as to Imerys, we'll get their
6 documents the first part of January.

7 JUDGE WOLFSON: My understanding is that most
8 of them have been produced.

9 This is a supplemental production, isn't it?

10 MS. DOTRO: Your Honor, we've made a full and
11 complete production.

12 JUDGE WOLFSON: Right. This is based on
13 conferences you've had --

14 MS. PARFITT: Your Honor, Imerys has been
15 very, very cooperative.

16 JUDGE WOLFSON: I understand. But what I'm
17 indicating is, I don't know how much more is really
18 coming anyway that is going to make a difference.

19 MS. PARFITT: We don't either.

20 It's a situation sometimes that maybe the last
21 round of documents are the ones that are most
22 important. I don't know that either, your Honor. I
23 haven't seen them. And I'm not suggesting that we
24 haven't gotten waves of discovery from all three of
25 the defendants.

1 My point is simply, we are waiting to see what
2 the discovery looks like at the conclusion of the
3 production just as we are looking at what does the
4 discovery look like at the conclusion of production
5 issues with regard to interrogatories and RFPs.

6 THE COURT: Excuse me one second.

7 (Pause.)

8 JUDGE WOLFSON: We're not putting our hands on
9 that submission because it wasn't filed on the docket
10 and I don't have my paper copy of your experts.

11 Do you have an extra copy of that?

12 MS. PARFITT: I do.

13 Your Honor, I think you understand as well
14 that there have not been depositions taken. There
15 were approximately three corporate depositions taken
16 of Imerys, a similar number for J&J, and only two
17 taken of PCPC.

18 So, again, we're not completely certain at
19 this point without the discovery what material will
20 ultimately be provided to our experts.

21 Again, the Court appreciates our experts will
22 also be relying on information from corporate
23 depositions, third-party depositions. We just haven't
24 done that process. It's not a blame. It's just we
25 haven't completed them.

1 JUDGE WOLFSON: I understand.

2 And, by the way, I was surprised, Ms. Sharko,
3 I hadn't gotten a letter from you when this came out,
4 and I thought, Well, maybe the defendant doesn't have
5 a problem with it. I thought you would be getting a
6 letter to me that same afternoon, but I didn't get
7 one. I'll hear from you in a moment.

8 I guess the other issue that I perhaps want to
9 raise when you are talking about all of these things
10 as well is, putting aside this asbestos component
11 which was not part of earlier science or whatever and
12 certainly wasn't part of our science day here, it's
13 not what you presented and maybe that's not what's
14 been tried yet, so that's a new issue.

15 But the other issues, while certainly I said
16 at the beginning of this case when the defendants were
17 taking the position: Judge, we've already done
18 discovery everywhere and we are not starting from
19 square one. I said, No we are not starting from
20 square one. But this is a different case and they may
21 decide to do different things here.

22 On a lot of those issues, we're not writing on
23 a blank slate. There has been discovery in many other
24 cases, deposition being taken. I guess what you are
25 telling me now is, you don't like the job that's maybe

1 been done in other cases where you've won or lost, and
2 you've decided how to do things better now. But we're
3 not on a blank slate.

4 So I'm a little confused about -- I don't see
5 this case as a case where we're starting with a brand
6 new case from square one that's the first time being
7 brought. It's not. And we have many of the same
8 players as lawyers here.

9 So it's not like you need to learn what's
10 going on and what the discovery has been. Put aside
11 the written discovery. There is now supplementation
12 here. But were no deps taken before?

13 MS. PARFITT: Your Honor, actually a very
14 limited number. As I indicated to the Court, there
15 were only three corporate depositions taken on Imerys,
16 the same number for J&J, and only two for PCPC.

17 So whether good or bad, and I don't pass
18 judgment on that, and I'm not suggesting it wasn't
19 done well in the state court. Obviously, the results
20 would demonstrate it was done well.

21 But the point of fact is, there has been
22 limited depositions that have been taken in the case
23 and there are additional deponents that we would like
24 to take.

25 JUDGE WOLFSON: Have you identified them?

1 MS. PARFITT: We had identified preliminarily
2 some deponents with J&J, but that was before we
3 started this process of getting the additional
4 documents, your Honor. I believe your Honor
5 indicated: Let's get the documents first. No
6 depositions until we have the documents.

7 That's of great importance and we agree with
8 the Court because we don't want to unnecessarily take
9 people's deposition that we don't need. We see a
10 document. We may not need to take that individual's
11 deposition. So I think that was well thought out.
12 It's a good plan.

13 We get the documents and then we are in a much
14 better position to assess who we really want, so that
15 we're not coming to the Court and saying: There's a
16 plethora of people and it's a go fish. We don't want
17 to do that. We understand. We heard the Court a year
18 ago. That's not what we're asking to do.

19 So we are trying to be informed with regard to
20 our decision-making with the types of individuals that
21 we designate. And all that plays into this larger
22 picture of the discovery role that unfortunately just
23 happens with cases and this case in particular.

24 We do have three defendants in the other
25 litigation. There's been two defendants. We haven't

1 had PCPC. It plays a role. I'm not saying it's the
2 only reason.

3 JUDGE WOLFSON: I don't think that's a huge
4 role here.

5 MS. PARFITT: Sure. That's why I'm qualifying
6 that, your Honor.

7 JUDGE WOLFSON: Yes.

8 MR. TISI: Can I just add here, we started out
9 when we had the first status conference, the first one
10 I was at in February, there was a representation that
11 the state court production of documents was everything
12 that we needed to have to do this case.

13 We now, as we sit here today, have almost
14 twice as many documents as we had in the state court
15 proceedings. It's doubled, if not more. We've gotten
16 third-party documents that because of various reasons
17 in the state court they don't have subpoena power to
18 get the kinds of people that you are more easily able
19 to get in the MDL.

20 When we met with Judge Pisano he said -- he
21 suggested -- let me make one other point.

22 In the California case, when the Judge wrote
23 the opinion in the California case, one of the things
24 that she noted was that there was additional discovery
25 that needed to be done. That case was done -- she

1 understood that there was a limitation because they
2 had to get the case to trial, but that there were
3 areas that the parties needed to further explore in
4 the case.

5 When we raised the issue with Judge Pisano
6 back in October, we told him at that point there were
7 four people -- and we actually raised this with your
8 Honor back in June -- there were four people that we
9 had asked for depositions from, from J&J, four people
10 from Imerys, and there were additional third parties
11 we wanted to take as well based upon the Court's
12 original description of the science in this case.

13 We explained to the Judge, to Judge Pisano in
14 October, that there were additional depositions we
15 needed to take. What Judge Pisano said at that point
16 was: Why don't we wait until the document production
17 is complete so we could see what the world is.

18 He understood that we doubled the number of
19 documents we got when J&J and Imerys originally said
20 the document production was complete. We now have
21 doubled that. What he suggested was that we meet in
22 January and further discuss the deposition protocol,
23 an opportunity, what we needed to do.

24 Candidly, one of the things we are doing in
25 the next week or two is sitting down and trying to

1 decide what depositions we need to take in order to
2 support the case. Candidly, as somebody who is trying
3 to run discovery and deal with the discovery issues,
4 there are issues that we want to explore, both
5 science, what they knew and when they knew it,
6 third-party depositions.

7 We think it's important for the thousands of
8 women who are in this MDL as opposed to what had gone
9 on in the states previously. So while we're not
10 really starting with a blank slate, there is a lot
11 that we feel like we need to do to adequately
12 represent these women.

13 And so we think there is a period of time
14 that we need to have in order to collect the
15 information, take the depositions, get them to our
16 experts, so we can winnow down the number of experts
17 that we have.

18 It's very difficult for us to identify at this
19 point all the experts we need, not having done the
20 discovery we feel like we need, in order to represent
21 the women in this case.

22 JUDGE WOLFSON: Ms. Sharko.

23 MS. SHARKO: The number of documents produced
24 has not doubled.

25 What we did, and we've been over and over this

1 with the plaintiff, is a number of the complaints we
2 just redid the production. Are there new documents in
3 there? Yes, but not double the number. They asked
4 for four depositions. We agreed to produce those
5 people and talk about dates. Enough is enough.

6 The discovery from the defendants is not going
7 to prove for the plaintiff that there is
8 scientifically sound evidence that the perineal use of
9 talcum powder products causes ovarian cancer. There
10 has been numerous trials. There was a Daubert-like
11 proceeding in New Jersey. There was a Daubert-like
12 proceeding in California.

13 Your Honor asked plaintiff to identify the
14 experts that they wanted to use to prove their case,
15 not the experts they were consulting with. We got a
16 list of 37 people. I agree that's an absurd list.
17 It's like everybody in the phonebook. But if that's
18 what they want, then we should get 37 expert reports
19 soon. We don't need to wait for the document
20 production which, by the way --

21 JUDGE WOLFSON: We're waiting for the
22 document production -- I'll just stop you there. That
23 I'm waiting for. We'll get the document production.
24 But I don't know, for many of the science experts, I
25 don't really understand why these corporate deps are

1 necessary.

2 MR. TISI: Let me give you an example, Judge.

3 The people who we initially named back in
4 July -- and I don't have the names in front of me.
5 But having been involved in the process of choosing
6 them, they were toxicologists primarily. They were
7 people who not only tested the purity of the talc, but
8 also reviewed the science as it was developing over
9 the past 20 and 30 years.

10 As your Honor knows, there have been a lot of
11 studies, both epidemiology studies, mechanistic
12 studies, toxicology studies. We've identified four
13 for each defendant. They've agreed to produce them.

14 JUDGE WOLFSON: Okay.

15 MR. TISI: You have --

16 MS. DOTRO: That's not true, Judge. I'm sorry
17 to interject. But we have no agreement yet.

18 MR. TISI: I thought we had.

19 JUDGE WOLFSON: I need you to move more
20 quickly. I talk quickly. We need to move this
21 process a bit. I don't need the beginning of time to
22 the end of time.

23 So what I need to focus on is: What really is
24 needed by way of depositions to start getting expert
25 reports rolling on the science? I told you we're

1 focusing on general causation first.

2 Now, you've done lots. You've been consulting
3 with experts for a long time about the science. Put
4 aside issues of, quote, when did J&J become aware of X
5 or maybe a particular study or a complaint. You know
6 what the studies are. You want to make sure you know
7 what all the studies are that are out there.

8 Your experts are going to be opining on the
9 science of that: What supports a connection between
10 this product, whether pure talc, whether with asbestos
11 in it or whatever it might be, can cause ovarian
12 cancer?

13 So that science focus, I don't see how this
14 changed by any of the discovery. I understand you may
15 have different kinds of experts and issues. The
16 asbestos you told me you haven't done yet. Okay. I
17 get it. That you did not have opinions on yet.

18 But I'm still trying to figure out: What in
19 here is going to affect those scientific opinions?

20 MR. TISI: Let me give you an example, your
21 Honor.

22 JUDGE WOLFSON: Okay.

23 MR. TISI: If you have a toxicologist who
24 testifies that based upon their review -- their own
25 people, that there are admissions you can get that --

1 I don't want to lay out our entire case in the open
2 courtroom.

3 THE COURT: I don't think there are any
4 surprises here, though. Go ahead.

5 MR. TISI: But we do believe that there are
6 admissions in the documents that we need to get from
7 witnesses, get them on the record, who will admit to
8 certain things that support the issues of causation,
9 biologic plausibility, relevance, the fit of certain
10 studies that were done.

11 JUDGE WOLFSON: I understand why you think
12 that will bolster your case --

13 MR. TISI: Correct.

14 JUDGE WOLFSON -- if you believe that there are
15 admissions. But that does not go to what your own
16 experts will be opining upon based upon their own
17 review of what the science was at the time and over
18 these years in this area regardless of whether they
19 admit it or not.

20 That's great for a trial, to put that before a
21 jury: Look, they admitted there was a problem here.
22 I understand that. But for your experts to opine,
23 they have to independently and their opinions stand on
24 their own as to what they are relying on for the
25 science.

1 MR. TISI: One of the things they can rely on,
2 your Honor -- and using admissions is just an
3 example -- they can rely on: Well, I read the
4 deposition testimony of Dr. X and they understood that
5 there was biologically plausible mechanisms that would
6 support causation in this case.

7 JUDGE WOLFSON: That's like an add-on. But
8 that doesn't support their own opinion of whether it
9 stands on its own.

10 MR. TISI: Well, these are not done in the
11 abstract.

12 JUDGE WOLFSON: I'm not going to resolve this
13 issue today. You are going to go one-by-one of
14 whoever they want to request. But what I do want to
15 do, I want to set some parameters on timing today and
16 it's not going to be open-ended on starting these
17 experts going.

18 Certainly, I'm willing to, whether it's
19 phasing a bit, because if you are going to have
20 experts on the asbestos component because it is new to
21 you, that that requires a little more time.

22 I don't think many of these others do, and so
23 there may be a staggering of which reports are due and
24 when and we're going to get them going. Because,
25 frankly, if it's 20 experts or 15 experts, we can't

1 attack them all at once anyway.

2 They are going to want to take a deposition of
3 an expert before they bring a Daubert motion. I don't
4 like Daubert motions without an expert of a dep. So
5 that process can begin. They're not all necessarily
6 going to be produced on the same day.

7 You thought there were. I'm thinking there
8 may be a way of dealing with this, and some of the
9 delay on someone who might be a new kind of expert and
10 not delaying the old kind. So I'm throwing those
11 things out today.

12 Do you have a meeting with Judge Pisano set
13 up?

14 MS. PARFITT: Your Honor, we do not at this
15 point. It's certainly something that I know he would
16 be amenable to and perhaps that's something we could
17 do to talk generally about a mutual discovery plan
18 that the parties could talk about and agree upon, that
19 we could then present to you, your Honor, that we sit
20 down and we talk about the necessary discovery we need
21 to do, try and get some accord with the other side,
22 and then make a presentation to you, your Honor.

23 JUDGE WOLFSON: Yes, Ms. Sharko.

24 MS. SHARKO: Discovery plan sounds like delay.
25 I think we should go back to your Honor's question,

1 which is: Who do you really need before we can get
2 expert reports?

3 JUDGE WOLFSON: Well, this is what I would
4 like to do: First of all, based upon the schedule
5 that you've already admitted to me on the documents,
6 J&J's full production of it, and if you are going to
7 have some objections you want to present to Judge
8 Pisano that you want to have reviewed by
9 December 20th, I think PCPC is somewhere in this
10 month, December 15th, and Imerys your last
11 supplemental is January 5th, we're talking basically
12 three weeks from now with a holiday in between. Not a
13 lot is getting done in December other than this
14 document discovery. Let's be practical about it.

15 So once that's complete, what I expect to see
16 is that by the second week in January, there is a
17 request for the depositions you want of fact
18 witnesses, and then that can be teed up for Judge
19 Pisano if you have objections to any of the
20 individuals, and get to those quickly and start
21 scheduling the dates for those. I don't know how many
22 there will be.

23 As far as then the experts, I don't
24 understand -- you have the universe of 37. When are
25 you going to narrow that?

1 MS. PARFITT: Your Honor, I think that's why I
2 like your suggestion, frankly, that maybe if we could
3 have a little time to put together -- and it's not a
4 delay plan. It is a discovery plan. It makes sense.
5 I think that helps us coordinate the discovery that's
6 necessary with the experts that are necessary.

7 Your Honor has just talked a bit about perhaps
8 staggering that process of putting that kind of plan
9 together might help us answer that question and
10 provide the Court a little bit more guidance, and it's
11 not a delay mechanism.

12 JUDGE WOLFSON: Well, we're not going to delay
13 anywhere. Now, we're kicking in. We've gotten
14 through a year of fighting over written discovery and
15 a lot of other things. We're there now and now we
16 move.

17 MS. PARFITT: I guess my point is, your Honor,
18 it's a processing part now, now that we're getting
19 what we're getting from the defendants as you've
20 indicated. We have the opportunity to process, see
21 how that fits in with the various experts. I think
22 having that discussion with the defendants is an
23 orderly way, and we present that then to the Court,
24 talk with Judge Pisano.

25 As you've indicated, we present a list of

1 folks that we feel should be deposed in the coming
2 months, get that done. That seems to be an orderly
3 way. We can request a meeting with Judge Pisano. We
4 can certainly do that as well. There wasn't one
5 planned. We can certainly do that.

6 JUDGE WOLFSON: Well, there is no reason to
7 present anything if you don't need anything. But I'm
8 just thinking maybe it could be helpful to hash out
9 some of these things particularly because he in the
10 first instance will deal with the issue of whether
11 there are objections to any of these depositions.

12 MS. PARFITT: That's right.

13 JUDGE WOLFSON: So I would like to see you
14 identify who you want to depose by January 10.

15 MS. O'DELL: Your Honor, I understand the
16 order to identify deponents by January 10th. But we
17 will not have had all the documents, only for five
18 days by the time that date rolls around. I know Ms.
19 Sharko said they just reproduced everything again.
20 But in fact we had 167,000 documents between Imerys
21 and J&J until early summer.

22 Now, we have 324,000 documents, most of which
23 have been produced, that additional number of
24 documents produced in the last 90 days, and we have
25 more coming. We are working very hard to get our arms

1 around those documents so we could identify those
2 deponents.

3 So it's just very challenging when you've got
4 even rolling production because you noticed in the
5 status report J&J had said December 20th, but we got
6 documents that will lag behind.

7 We can identify a certain number of deponents
8 by January the 10th. We're working on that. We're
9 happy to do it. But we will not be able to have
10 opportunity to review the documents in order to ensure
11 that a fuel universe --

12 JUDGE WOLFSON: I understand that you may say:
13 Having now had a better opportunity, there are two
14 more that we want. Okay. You'll identify them. The
15 fact that I told you to do it by January 10th doesn't
16 mean that it's a forever more if something else comes
17 up. I understand.

18 MS. O'DELL: Thank you.

19 We're just making that clear, your Honor, just
20 telling you where we are in this process.

21 JUDGE WOLFSON: I hear you, and I understand
22 it's a large job. But, on the other hand, if you
23 recall -- I'm not sure that I need all this on the
24 record.

25 (Discussion of the record.)

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3 JUDGE WOLFSON: On the record.

4 MS. SHARKO: I would like to inform the Court
5 that Bart Williams, who is a lawyer in the California
6 office of the Proskauer firm and has been my client's
7 lead counsel in California and in a Missouri case and
8 very active in the Daubert-like proceeding called
9 Sargon in California, is working on the Daubert issues
10 with us for our client and will be involved here.

11 JUDGE WOLFSON: Okay.

12 What I had indicated off the record and I will
13 say here, because I've had an issue arise when I've
14 had Proskauer cases in the past or firms that my son
15 had been affiliated with, the rules are quite clear
16 that that does not require recusal, that relationship,
17 and the role that she plays because she is an
18 associate, my daughter-in-law at that firm, not a
19 partner.

20 And all that I do is, I make the parties aware
21 of that relationship, and she is not in any way
22 involved in this litigation. I know that they have
23 made, according to my daughter-in-law, no one can even
24 talk around her. So that I would not be recusing
25 myself as a result of their involvement if they do

1 become involved in this case. Though, I give any
2 party the opportunity to raise any concerns or
3 objections that you would like which I would consider.

4 MS. SHARKO: Thank you.

5 JUDGE WOLFSON: Anything else today?

6 MS. SHARKO: No.

7 JUDGE WOLFSON: Off the record.

8 (Discussion off the record.)

9 THE CLERK: All rise.

10 (Proceedings concluded.)

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C E R T I F I C A T E

I, **Vincent Russoniello**, Official United States Court Reporter and Certified Court Reporter of the State of New Jersey, do hereby certify that the foregoing is a true and accurate transcript of the proceedings as taken stenographically by and before me at the time, place and on the date hereinbefore set forth.

I do further certify that I am neither a relative nor employee nor attorney nor counsel of any of the parties to this action, and that I am neither a relative nor employee of such attorney or counsel, and that I am not financially interested in this action.

S/Vincent Russoniello
Vincent Russoniello, CCR
Certificate No. 675

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